

**REMARKS**

Claims 1-18, all of the claims pending in the application, are finally rejected.

**Claim Rejections Under 35 USC § 103**

Claims 1, 4, and 8 are rejected as obvious over Silver et al (U.S. Pat. No. 6,230,349) in view of Hickerson (U.S. Pat. No. 5,103,879) and Tanaka et. al. (U.S. Pat. No. 5,016,303). Silver et al teaches a U-shaped pillow of adjustable firmness comprising a pair of fabric members that are sewn together at their perimeter edges to form a continuous seam. One of the fabric members has an opening therein at a location away from its perimeter edge (see, e.g. col. 3, lines 45-46). The opening is reversibly closeable to permit a user to adjust the firmness of the pillow by adding or removing fill material to or from the lumen of the pillow body through the opening (see, e.g. col. 3, lines 48-65).

Claim 1 is distinguished over the teachings of Silver et al for several reasons. First, Silver et al teach that the entire outer periphery of the fabrics forming the pillow are sewn together and that an opening into the interior of the pillow is formed in one of the fabrics away from its outer periphery. In the method of claim 1, a portion of the mid-section is left unsewn when the two skins are sewed together near their outer edges, thereby forming an opening into the interior at the unsewn outer edges of the skins. Claim 1 has been amended to clarify this aspect of the invention. Secondly, Silver et al teach that the opening is configured to allow the user to add or remove fill material to adjust the firmness of the pillow. In contrast to the adjustable firmness taught by Silver et al, the method of claim 1 provides for blowing fill material into the interior of the pillow until a certain firmness value is achieved, and then closing the opening to retain the fill material within the interior.

As stated by the Examiner, Silver et al also fails to teach blowing the fill material into the shell and a pillow firmness defined by an IFD value of at least 20 Newtons with 25% deflection. The Examiner maintains that it would have been obvious to modify the method of Silver et al to blow fill material into the shell in light of Hickerson, and to perform the Silver et al method to make a pillow having the claimed IFD value in light of Tanaka. Even assuming *arguendo* that this is true, neither Hickerson nor Tanaka teaches the step of adding fill materials

into the pillow through an opening at the unsewn outer edges of the skins, as required by amended claim 1. Claim 1 has been amended to further clarify this aspect of the invention.

In addition, Tanaka teaches IFD values that are not comparable to the IFD values of claim 1. First of all, Tanaka expresses IFD values in pounds per square inch (which is a measure of pressure, i.e. force per unit area), whereas the IFD values in claim 1 are expressed in Newtons (which is a measure of force). Secondly, the IFD values of claim 1 were obtained using a standard test method (ASTM D3574-0131, Test B; see, e.g. paragraph 0026 of the specification), whereas Tanaka's IFD values were obtained using some unspecified test method. Accordingly, Tanaka does not (and cannot) teach the IFD value limitations of claim 1 because Tanaka apparently uses a different test method which could have different sample sizes and thicknesses, different sized indenter foot, etc., all of which influence IFD readings. Comparing Tanaka's IFD values and those of claim 1 are like comparing apples and oranges.

For the above reasons, the Examiner has not established a prima facie case that claim 1 is obvious over Silver et al in light of Hickerson and Tanaka. Reconsideration and withdrawal of the rejection are respectfully requested.

With respect to dependent claims 4 and 8, the combination of Silver/Hickerson/Tenaka does not teach or suggest all of the limitations of independent claim 1, as discussed above, and specifically with respect to claim 4 does not teach or suggest inserting the nozzle through the opening at the unsewn outer edges of the skins in the middle region of the pillow. Therefore, reconsideration and withdrawal of the rejection of claims 4 and 8 is respectfully requested.

Claims 2 and 3 are rejected as obvious over the combination of Silver/Hickerson/Tenaka, further in view of Koch. As argued above, the combination of Silver/Hickerson/Tenaka does not teach or suggest the invention of amended claim 1 on which claims 2 and 3 are dependent. The addition of the Koch disclosure does not make the invention defined by amended claim 1 obvious because Koch, alone or in combination with Silver/Hickerson/Tenaka, does not anticipate or suggest a method whereby a pillow is filled through an opening at the unsewn outer edges of the skins in the middle region of the pillow. Reconsideration and withdrawal of the rejection is respectfully requested.

Claims 5 and 6 are rejected as being obvious over Silver/Hickerson/Tanaka in view of Matthews '185. As argued above, the combination of Kelly/Hickerson/Tanaka does not teach or suggest the invention of amended claim 1 on which claims 5 and 6 are dependent. The addition of the Matthews '185 disclosure does not make the invention defined by amended claim 1 obvious because it does not anticipate or suggest a method whereby a pillow is filled through an opening at the unsewn outer edges of the skins in the middle region of the pillow. Reconsideration and withdrawal of the rejection is respectfully requested.

Claim 7 is rejected as obvious over the combination of Silver/Hickerson/Tenaka, further in view of Matthews '720. As argued above, the combination of Silver/Hickerson/Tenaka does not teach or suggest the invention of amended claim 1 on which claim 7 is dependent. The addition of the Matthews '720 disclosure does not make the invention defined by amended claim 1 obvious because it does not anticipate or suggest a method whereby a pillow is filled through an opening at the unsewn outer edges of the skins in the middle region of the pillow. Reconsideration and withdrawal of the rejection is respectfully requested.

Claim 9 is rejected as obvious over the combination of Silver/Hickerson/Tenaka, further in view of Brown. As argued above, the combination of Silver/Hickerson/Tenaka does not teach or suggest the invention of amended claim 1 on which claim 9 is dependent. The addition of the Brown disclosure does not make the invention defined by amended claim 1 obvious because Brown does not anticipate or suggest a method whereby a pillow is filled through an opening at the unsewn outer edges of the skins in the middle region of the pillow. Furthermore, one skilled in the art would not be motivated to combine the teachings of Brown, wherein the opening is permanently closed by sewing the skins together to prevent filter material from being removed, with the teachings of Silver, wherein the opening is made reversibly closeable to allow filter material to be added and removed by the user. Reconsideration and withdrawal of the rejection is respectfully requested.

Claims 10 and 17 are rejected as obvious over Silver in view of Hickerson, and claim 11 is rejected as being obvious over Silver/Hickerson further in view of Tanaka. Claim 10 has been amended to specify that the opening into the interior is at the unsewn outer edges of the skins. As previously argued, Silver teaches filling the interior of the pillow through an opening

formed in one of the fabrics away from the outer periphery of the pillow. As previously discussed in connection with claim 1, Hickerson teaches blowing fill materials into pillows through a nozzle and Tanaka discloses pillows with IFD values that cannot be compared to the values set forth claim 11. The combination of Silver/Hickerson/Tanaka does not result in the invention of claim 10, and claims 11 and 17 dependent thereon, for the same reasons set forth above with respect to the rejection of claim 1 and the claims dependent thereon. For these reasons, amended claim 10, and claims 11 and 17 dependent thereon, are not obvious over Silver in light of Hickerson and Tanaka. Reconsideration and withdrawal of the rejection are respectfully requested.

Claims 12 and 13 are rejected as being obvious over Silver/Hickerson in view of Koch. As argued above, the combination of Silver/Hickerson does not teach or suggest the invention of amended claim 10 on which claims 12 and 13 are dependent. The addition of the Koch disclosure does not make the invention defined by amended claim 10 obvious because it does not anticipate or suggest a method whereby a pillow is filled through an opening at the unsewn outer edges of the skins in the middle region of the pillow. Reconsideration and withdrawal of the rejection is respectfully requested.

Claims 14 and 15 are rejected as being obvious over Silver/ Hickerson in view of Matthews '185. As argued above, the combination of Silver/Hickerson does not teach or suggest the invention of amended claim 10 on which claims 14 and 15 are dependent. The addition of the Matthews '185 disclosure does not make the invention defined by amended claim 10 obvious because it does not anticipate or suggest a method whereby a pillow is filled through an opening at the unsewn outer edges of the skins in the middle region of the pillow. Reconsideration and withdrawal of the rejection is respectfully requested.

Claim 16 is rejected as obvious over Silver/Hickerson in view of Matthews '720. As argued above, the combination of Silver/Hickerson does not teach or suggest the invention of amended claim 10 on which claim 16 is dependent. The addition of the Matthews '720 disclosure does not make the invention defined by amended claim 10 obvious because it does not anticipate or suggest a method whereby a pillow is filled through an opening at the unsewn outer

edges of the skins in the middle region of the pillow. Reconsideration and withdrawal of the rejection is respectfully requested.

Claim 18 is rejected as obvious over Silver/Hickerson in view of Brown. As argued above, the combination of Silver/Hickerson does not teach or suggest the invention of amended claim 10 on which claim 18 is dependent. The addition of the Brown disclosure does not make the invention defined by amended claim 10 obvious because Brown does not anticipate or suggest a method whereby a pillow is filled through an opening at the unsewn outer edges of the skins in the middle region of the pillow. Reconsideration and withdrawal of the rejection is respectfully requested.

#### CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,



Mart C. Matthews  
Reg. No. 26,201

TOWNSEND and TOWNSEND and CREW LLP  
Two Embarcadero Center, Eighth Floor  
San Francisco, California 94111-3834  
Tel: 303-571-4000  
Fax: 303-571-4321  
MCM/cl  
60718758 v1